IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.O.C.P. No.833 of 2007 (O&M)
Date of Decision:- 12.02.2008

Rajesh Kumar ....Petitioner(s)

through
Mr.Rajnish Gupta, Advocate

vs.

Santosh Rani & another ....Respondent(s)

through
Mr. , Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The petitioner is aggrieved at the order dated 21.11.2006 passed by the learned Civil Judge (Sr.Division), Kaithal whereby his application under Order 39 Rules 1 and 2 CPC has been dismissed, as also against the order dated 17.1.2007 passed by the learned Additional District Judge, Kaithal, upholding the aforementioned order.

The ad-interim injunction was sought by the petitioner in a suit for permanent injunction filed by him to restrain the respondents from interfering in his peaceful possession over the subject shop. The petitioner claims himself to be a tenant under the respondent-defendants.

Both the Courts below, on the basis of material on record, have concurrently observed that, *prima facie,* relationship of landlord and tenant has not been established; there is no material to suggest payment of rent by the petitioner; in fact the petitioner was an employee in the shop and taking

undue advantage thereof, he has created some records which do not inspire confidence; there was no occasion for the respondents to induct the petitioner as tenant in the year especially when the shop was constructed in the year 1991 after taking the land on lease from Wakf Board.

In ad-interim injunction matters, it is well known that this Court in exercise of its revisional jurisdiction will not substitute the opinion formed by the Courts below unless it is found that the orders have been passed in ignorance of the material on record and/or the observations are totally perverse.

Learned counsel for the petitioner, however, places reliance upon a judgment of this Court in the case of **Avtar Singh vs. Rajinder Singh**, 2006(3) Law Herald (P&H) 2497 wherein it was observed that when the plaintiff was in possession of the shop and was carrying on day to day business, irreparable loss would be caused in case his possession was not protected. There can be no exception to the aforesaid view. However, in order to show his possession, the petitioner has placed reliance on certain photographs which suggest that the respondent-plaintiff too is present at the shop. The same strengthens the landlords' plea that the petitioner was merely an employee in the shop and was not inducted as a tenant. Even otherwise, on the basis of evidence adduced, it has come on record that the petitioner is not in exclusive possession of the subject shop.

Dismissed.

February 12, 2008 **(SURYA KANT)**
poonam **JUDGE**